

Plaintiff's Name Tijue Adolphus McElhee
Prisoner No. 1156331
Institutional Address MAGUIRE CORRECTIONAL
FACILITY /55- West-02 300
BRADFORD STREET PENNWOOD CITY, CA. 94063

FILED

MAR 30 2023

Mark B. Busby
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Tijue Adolphus McElhee
(Enter your full name)

Case No. 4:23-cv-1521 HSG
(Provided by the clerk upon filing)

SAN MATEO COUNTY
SHERIFF DEPARTMENT

(Enter the full name(s) of all defendants in this action)

COMPLAINT BY A PRISONER
UNDER THE CIVIL RIGHTS ACT,
42 U.S.C. § 1983

I. Exhaustion of Administrative Remedies.

You must exhaust available administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.

A. Place of present confinement MAGUIRE CORRECTIONAL FACILITY

B. Is there a grievance procedure in this institution? YES NO

C. If so, did you present the facts in your complaint for review through the grievance procedure?
 YES NO

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue any available level of appeal, explain why.

1. Informal appeal: No Resolution Could Be Given At This Level Of Appeal, Only Excuses And Discouragement Pertaining To Federal U.S. Postal Mail.
2. First formal level: Filed Grievance On 12-18-2022 To The Shift Sergeant, And Waited For The Response To Grievance About Denying My U.S. Mail.

3. Second formal level: Received Reply To Grievance On 12-27-2022 stating: All Prisoners Mail Is Sent By The Senders To SMART COMMUNICATIONS IN FLORIDA.

4. Third formal level: I THEN SENT A LETTER TO THE ON DUTY WATCH COMMANDER ON BLANK YELLOW RULE PAPER ON 1-4-2023, I HAVE NOT RECEIVED A REPLY IN THE REQUIRED 14 DAYS, 65 DAYS AND COUNTING.

E. Is the last level to which you appealed the highest level of appeal available to you?

YES

NO

F. If you did not present your claim for review through the grievance procedure, explain why.

II. Parties.

A. If there are additional plaintiffs besides you, write their name(s) and present address(es).

Stephanie Krent OR the Knight First Amendment Institute At Columbia University.

B. For each defendant, provide full name, official position and place of employment.

SAN MATEO COUNTY SHERIFF DEPARTMENT

III. Statement of Claim. SHERIFF DEPARTMENT DENIES PLAINTIFF AND INMATES U.S. POSTAL MAIL TO MAGUIRE CORRECTIONAL FACILITY. 1ST AMENDMENT
State briefly the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph.

On 12-18-2022 A Grievance Was Filed By Me On The San Mateo County Jail Facilities Inmate Grievance Form (GOLD FORM), To The Supervisor Sergeant, My Understanding IS That There Is An Ongoing Refusal OF Custody Outside, That

SHORT TITLE:	CASE NUMBER:
--------------	--------------

1 The U.S. Postal Mail Is Being Refused And Sent Back
 2 To Sender Once The Mail Is Delivered To The Massive
 3 Correctional Facility, Housing Me. Custody Staff Was
 4 Not Clear As To The Reason Why The United
 5 States Postal Mail Was Stopped, And I Was Not
 6 Given Any Further Notice As To The Reason Why
 7 I Could No Longer Receive, And Have Anymore
 8 Access To Outside Handwritten U.S. Mail.

9 I Further Inquired For The Sergeant To Please
 10 Explain To Me The Reason Why I Can't Exercise
 11 My Rights, To Have Not The Access To Outside
 12 Incoming U.S. Postal Mail Delivered To My Housing
 13 Unit Facility Address? I Have Yet To Receive
 14 The Correct Answer, But Received This Reply: All
 15 Prisoner Mail Is Sent By The Senders To: SMART
 16 COMMUNICATIONS In Florida, The Mail Is Scanned
 17 And You Can Access It On The Tablet. (See attached
 18 grievance and letter). For The Final Level (3), I Did As
 19 The Policy And Procedures Manual Suggests And Followed
 20 The Third Step In The Grievance Procedure, And Have
 21 Yet To Receive Any Response Within (2) Two Weeks.
 22 On The 14th of March 2023 Makes 65 Days With
 23 No Response From The Watch Commander. (Please
 24 see all documents attached as Ex. 1-4). 14th AMENDMENT.

26 (Required for verified pleading) The items on this page stated on information and belief are (specify numbers, **not line**
 numbers:)

27 This page may be used with any Judicial Council form or any other paper filed with court.

Page 3

1 1. On the date of 12-18-2022, grievance
2 was filed to the supervising sergeant of the
3 "Maguire Correctional Facility" pertaining to
4 impeding my United States Postal Mail.
5

6 2. Plaintiff sought out to get a
7 clear understanding and reason for being
8 deprived physical mail by the "County Facility"
9 he is housed in.
10

11 3. Being that the grievance process is
12 the only way to acquire a response from
13 the supervising administration within the
14 "San Mateo County facility".
15

16 4. Plaintiff's grievance has been delayed
17 and not responded to at the third
18 and final level, to delay Plaintiff
19 his exhaustion of administrative remedies
20 for petitioning the government for a redress
21 or grievances. Violating his First Amendment
22 and 14th Amendment rights guaranteed to
23 him under the United States Constitution.
24

25 5. U.S. Postal mail sent to "SMART COMMUNI-
26 CATIONS IN FLORIDA" is destroyed after
27 Being Received And Scanned To Tablets.
28

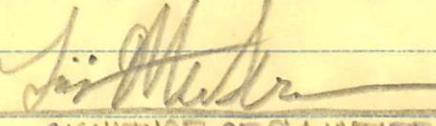
1 IV. Relief.

2
3 Plaintiff seeks the courts help with righting
4 the wrong committed, and still being committed
5 against me and the Constitutional rights
6 guaranteed to me by the First Amendment, and
7 Fourteenth Amendment of the United States
8 Constitution with a policy that violates
9 those rights and my family to privacy and
10 the freedom of expression under both
11 State and U.S. Constitutional Law. Plaintiff
12 prays the court order reestablishment of
13 receiving U.S. Postal Mail, and granting thereof
14 actual damages, compensatory damages,
15 and punitive damages for the Constitu-
16 tional injuries perpetrated by San Mateo
17 County, and all other relief the Court may
18 deem fit. Appointment of Counsel Requested.
19

20 I DECLARE UNDER PENALTY OF PERJURY
21 THAT THE FOREGOING IS TRUE AND CORRECT.

22
23 Executed on: 3-23-2023

24 DATE


25 SIGNATURE OF PLAINTIFF

26

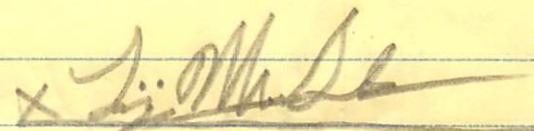
27

28

Proof Of Service

On the date of March 23rd, 2023, I, Tijue Adolphus McGhee, did file a 42 U.S.C. § 1983 Civil Rights Complaint with U.S. District Court for the Northern District of California, 450 Golden Gate Avenue, Box 36060, San Francisco, CA. 94102. Proof of Service By Mail.

I, Tijue Adolphus McGhee, do hereby declare under penalty of perjury that the foregoing is true and correct under the Laws of the State of California and UNITED STATES OF AMERICA.



Date: 3-23-2023

EXHIBIT #1

SAN MATEO COUNTY JAIL FACILITIES
INMATE GRIEVANCE FORM

DATE: 12-18-2022

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only

Administration Other
 Classification
 Medical
 Food Service

Received: Staff Only

Date 12/18/22
 Time 2100 hrs
 Facility MCF
 Deputy TANNENBAUM

To: (Shift Sergeant) Gilitti

Date 12-18-2022

From: (Inmate's Name) TIAUE MCGHEE

Id# 1156331 Cell 5-W-2

Grievance (Please be specific: time, date, etc.)

TO THE SUPERVISED SERGEANT, I DO UNDERSTAND THERE IS AN ONGOING REFUSAL OF CUSTODY OUTSIDE THAT THE U.S. POSTAL MAIL IS BEING REFUSED AND SENT BACK TO SENDER. ALSO THE MAIL IS DELIVERED TO THE MAGUIRE CORRECTIONAL FACILITY HOUSING UNIT. CUSTODY STAFF WAS NOT CLEAR AS TO THE REASON WHY THE U.S. POSTAL MAIL WAS STOPPED AND I WAS NOT GIVEN ANY FURTHER NOTICE AS TO THE REASON WHY I COULD NO LONGER RECEIVE AND HAVE ANYMORE ACCESS TO OUTSIDE HANDWRITTEN U.S. MAIL.

CAN YOU PLEASE EXPLAIN TO ME THE REASON WHY I CAN'T EXERCISE MY RIGHTS TO HAVE NOT THE ACCESS TO OUTSIDE MAIL CALLING U.S. POSTAL MAIL DELIVERED TO MY HOUSING UNIT FACILITY ADDRESS?

Inmate's Signature: *Tiaue McGhee*

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

Signature:

Date:

GRIEVANCE PROCEDURE

Any inmate of the San Mateo County Jail system may grieve any condition of confinement over which the San Mateo County Sheriff's Office has control. A grievance should be resolved at the lowest possible level. This means the inmate should first direct the grievance to line staff. This may be done informally by talking to the line staff at your housing location if applicable.

- 1) If the grievance is not resolved, you may then complete an Inmate Grievance Form (keep gold copy) and forward it to line staff for a supervisor's response.
- 2) If you desire, you may appeal the Supervisor's response/decision. You should direct your appeal in the form of a letter to the On-duty Watch Commander (Lieutenant) within 10 business days of the supervisor's response date above. Your appeal letter must be written on blank or lined paper and must be limited to the original grievance issue. Appeal letters shall not be written on a grievance form.
- 3) The Watch Commander will review your original grievance and the Supervisor's response. The Watch Commander will provide a response to you within approximately two weeks, which will include the reason(s) for the denial if your appeal is denied.

Exhibit #2

RESPONSE TO GRIEVANCE

DATE: 12-27-2022

BY: SUPERVISING SERGEANT

San Mateo County Jail Facilities Inmate Grievance Form

Routing: Staff Only

Administration Other
 Classification
 Medical
 Food Service

Received: Staff Only

Date 12/18/22
Time 2100 HRS
Facility MCF
Deputy TANNENBAUM

To: (Shift Sergeant) GilittiDate 12-18-2022From: (Inmate's Name) TIJUE MCGHEEId# 1156331Cell 5W-2
2SW

Grievance (Please be specific: time, date, etc.)

TO THE SUPERVISOR SERGEANT, I DO UNDERSTAND THERE IS AN ONGOING REFUSAL OF CUSTODY OUTSIDE THAT THE U.S. POSTAL MAIL IS BEING REFUSED AND SENT BACK TO SENDER ONCE THE MAIL IS DELIVERED TO THE MAGUIRE CORRECTIONAL FACILITY HOUSING UNIT. CUSTODY STAFF WAS NOT CLEAR AS TO THE REASON WHY THE U.S. POSTAL MAIL WAS STOPPED AND I WAS NOT GIVEN ANY FURTHER NOTICE AS TO THE REASON WHY I COULD NO LONGER RECEIVE, AND HAVE ANYMORE ACCESS TO OUTSIDE HANDWRITTEN U.S. MAIL.

CAN YOU PLEASE EXPLAIN TO ME THE REASON WHY I CAN'T EXERCISE MY RIGHTS TO HAVE NOT THE ACCESS TO OUTSIDE INCOMING U.S. POSTAL MAIL DELIVERED TO MY HOUSING UNIT FACILITY ADDRESS?

Inmate's Signature: Tijue McGhee

Note: Upon signing this form take GOLD copy. It contains the grievance procedures.

Supervisor's response:

All Pearson in in is faint by the
sender to smart communications in Florida the
mail is scanned and you can access it on the
tablet.

Signature: S-locDate: 12-27-22

GRIEVANCE PROCEDURE

Any inmate of the San Mateo County Jail system may grieve any condition of confinement over which the San Mateo County Sheriff's Office has control. A grievance should be resolved at the lowest possible level. This means the inmate should first direct the grievance to line staff. This may be done informally by talking to the line staff at your housing location if applicable.

- 1) If the grievance is not resolved, you may then complete an Inmate Grievance Form (keep gold copy) and forward it to line staff for a supervisor's response.
- 2) If you desire, you may appeal the Supervisor's response/decision. You should direct your appeal in the form of a letter to the On-duty Watch Commander (Lieutenant) within 10 business days of the supervisor's response date above. Your appeal letter must be written on blank or lined paper and must be limited to the original grievance issue. Appeal letters shall not be written on a grievance form.
- 3) The Watch Commander will review your original grievance and the Supervisor's response. The Watch Commander will provide a response to you within approximately two weeks, which will include the reason(s) for the denial if your appeal is denied.

Exhibits

LETTER TO "WATCH COMMANDER"
DATE: 1-4-2023

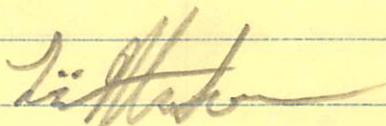
1 To: SMCJ On Duty Watch Commander
2 Date: 1-4-2023
3 From: Tijue McGhee #1156331
4 Cell: 5-West-02
5

6 Lieutenant,

7
8 I just received my grievance today from
9 the supervising sergeant on the date of 1-4-2023.
10 I had inquired about why "I" couldn't gain access
11 to outside incoming U.S. Postal Mail? The Only reply
12 I received was written non-legible and not within
13 the scope of the question I had asked. This is
14 depriving me of tangible mail that is my personal
15 property. I have not been convicted of any Federal
16 mail crimes/violations, so I ask the question to you, why am
17 I not able to have any physical access to U.S. Postal
18 Mail when I have not been convicted of any rel-
19 ate criminal acts involving Federal mail?

20 Thank You Very Much.

21 "Respectfully"



22
23 Please send me A Copy OF The
24 Letter With Response?

1-4-2023

25

26

27

28

Exhibit #4

San Mateo County Sheriff's Office
Corrections Division
Policy and Procedures Manual
"Applicable to all Facilities"
— Pages 1 of 4, 2024, 3024 —

San Mateo County Sheriff's Office Corrections Division Policy and Procedures Manual Applicable to all facilities	Section:	Number of Pages:
	06.08	4
	Related Standards: Title 15, Section 1073	
Issue Date:	Revision Date:	
1/01/94	08/16/17	
Chapter:	Subject: Inmate Grievance Procedure	
Inmate Management		

I. **PURPOSE:** To establish a policy for handling inmate grievances in an expeditious and equitable manner while adhering to the provisions of Section 1073, Title 15, CCR.

II. **POLICY:** Any inmate in the San Mateo County Jail system may grieve any condition of confinement which the San Mateo Sheriff's Office has control, including but not limited to:

- Medical care
- Classification actions
- Disciplinary actions
- Program participation
- Telephone, mail & visiting procedures
- Food, clothing & bedding
- Cashier, Commissary

A. A grievance should be resolved at the lowest possible level. This means the inmate should first direct his problem to a line staff member (before receiving the inmate's grievance, the line staff shall make every effort to handle the issue informally or through an inmate request form).

B. If the problem cannot be resolved at the line staff level, the inmate will be given the opportunity to submit a written grievance. The inmate grievance must comply with the conditions/rules of the inmate grievance policy as posted in each pod. If the grievance does not comply it may be returned by a Sergeant, Lieutenant or Captain of the facility. The inmate must complete an Inmate Grievance Form and give it to any custody staff officer. Upon receipt of the written grievance from the inmate, the custody officer will fill out the "received box" on the top right corner of the grievance. The "received box" will be filled out legibly and include the date and time the grievance was received, the facility it was received in, and the custody officer's last name and badge number who received the grievance. The custody officer will then return the back "Gold" copy of the grievance to the inmate.

C. The accepting officer will then give the grievance to his or her direct supervisor. The supervisor shall properly investigate the issue in order to prepare a written response to the inmate's grievance or forward the grievance to the appropriate person or department for such response. If the complaint is in reference to a specific staff member or department, (Custody, Correctional Health Services, Food Services, Medical, etc.), the grievance should be forwarded to that sworn staff member's supervisor or the department's supervisor for a

written response. Once the supervisor provides a written response, the grievance shall be returned to the inmate.

D. Copies of the fully completed grievance will be distributed as follows:

- Yellow – Inmate
- Pink – Staff
- White – Jail Administration

E. Inmate grievances that require a simple inquiry and no detailed investigation will be answered by the supervisor on a timely basis. Responses to grievances will be returned to the inmate as soon as possible, no longer than 10 business days, from when custody staff received the grievance.

F. If it is determined that additional investigative time is necessary to make an appropriate decision, the inmate will be notified by a letter of extension from the responding supervisor (Sergeant) or his Watch Commander.

G. Complaints or claims of inappropriate staff behavior (i.e. excessive force or conduct unbecoming), shall be forwarded directly to the supervisor to determine the appropriate course of action.

H. If an inmate is dissatisfied, he/she may appeal the supervisor's decision. The appeal must be submitted within 10 business days of the supervisor's response. If the appeal is not received within the prescribed 10 business daytime period, it may be rejected.

1. The appeal shall be a letter written on plain/ruled white paper. Reference shall be included to which grievance is being appealed. This is done by including the "written date" for the original grievance and the inmate's county identification number. Grievance appeals shall contain a clear, concise statement explaining the basis for the appeal. If needed, staff will provide paper and envelope for appeal.
2. The inmate will complete the appeal, place the appeal in an envelope and forward it via jail staff/ or U.S. mail to the Correction Division's Administrative Lieutenant at 330 Bradford Street, Redwood City, 94063. If asked, the pod officer will make a copy of the appeal letter for the inmate to be returned by the end of shift.
3. The Administrative Lieutenant shall maintain all received inmate appeals. A log shall be kept of all appeals and each supplied with a unique identification number and date stamp (date received) placed upon each appeal for tracking and record keeping purposes. The Administrative Lieutenant will then forward the inmate's appeal to the appropriate Correction's Division Watch Commander of the team or unit who answered the original grievance. The Watch Commander shall provide a written response or approved response to the inmate within 15 business days of receipt (date stamp), including the reasons if he/she denies the appeal.

I. When the Watch Commander's appeal response is complete, he or she will provide a copy to the inmate and the original to the Administrative Lieutenant for tracking and record keeping purposes.

J. It is the Jail Administrative Compliance Unit's responsibility to maintain files of inmate grievances, responses and dispositions. The exception to this will be an inmate with excessive filings of grievances that has been assigned to a Sergeant which shall keep all said inmate's original grievances/ responses and copies shall be sent to the Jail Compliance Unit.

Grievance Restriction: Any inmate who submits an excessive number of grievances may be subject to a restriction of their grievance privileges per accordance with Minimum Jail Standards, California Code of Regulations, Title 15, Section 3084.4.

Excessive being defined by:

- A. Inmate that submits more than one non-emergency grievance within a seven-day period can be considered excessive. An emergency grievance shall mean those grievances for which normal time of processing could subject an inmate to a substantial risk of personal injury or other serious harm.
- B. Continual submission of grievances containing issues which are being processed or have previously been addressed.
- C. Continual submission of grievances containing statements, which after investigation, are routinely found to be false.
- D. Submission of grievances determined by the facility Watch Commander to be an abuse of the grievance process.

Restriction Plans:

- A. A memorandum from the Watch Commander/Sergeant will be addressed to the Correction Division's Captain outlining who is to be placed on a restriction plan, the plan for restrictions and the reasons with copies of supporting documentation.
- B. The Correction Division's Captain shall approve /disapprove any grievance restrictions.
- C. If approved, the Watch Commander/Sergeant shall address a memorandum to the inmate stating that they have been put on grievance restriction and detailing the conditions of the restriction.

Restriction Processing:

- A. All grievances submitted by the "grievance restricted" inmate shall be processed as follows:
 1. Received box completed by receiving pod deputy/officer.
 2. The grievance shall then be directly forwarded to an assigned Sergeant.
 3. The assigned Sergeant shall review the grievance to determine if it complies with the conditions of the inmate's restriction plan.
 4. If the grievance contains previously addressed issues, the Sergeant shall chronicle the issue and record the corresponding date of the past grievance in which the issue was answered. The inmate's copy of the grievance will